

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
)	
Telecommunications Carriers Eligible to)	WC Docket No. 09-197
Receive Universal Service Support)	
)	
Lifeline and Link Up Reform and)	WC Docket No. 11-42
Modernization)	
)	

COMMENTS OF STS MEDIA, INC. D/B/A FREEDOMPOP

STS Media, Inc. d/b/a FreedomPop (FreedomPop or the Company), by its attorneys, hereby submits comments to the Federal Communications Commission (Commission) in response to the request for reconsideration concerning Lifeline Broadband Providers (LBP) filed by 39 consumer advocacy and civil society organizations¹ and the Wireline Competition Bureau’s (Bureau’s) corresponding Public Notice (Public Notice).² FreedomPop supports the Civil Society Letter’s request for the Commission to “overturn the Wireline Competition Bureau’s Order on Reconsideration that rescinded Lifeline Broadband Provider designations for nine carriers prepared to offer Lifeline broadband services,”³ including FreedomPop. As explained herein, the concerns in the Civil Society Letter regarding the availability of broadband

¹ See Letter from 18MillionRising.org et al. to the Honorable Ajit Pai, Chairman, Federal Communications Commission, et al., WC Docket No. 11-42 (Feb. 23, 2017) (Civil Society Letter).

² See *Wireline Competition Bureau Seeks Comment on Request for Reconsideration Concerning Lifeline Broadband Providers*, WC Docket Nos. 09-197, 11-42, Public Notice, DA 17-213 (WCB Mar. 2, 2017).

³ Civil Society Letter at 2. See also *Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket Nos. 11-42, 09-197, Order on Reconsideration, DA 17-128 (rel. Feb. 3, 2017).

Internet access services (BIAS) at affordable rates in low-income communities are valid. The LBP designation process adopted in the Lifeline Modernization Order⁴ would help to close the digital divide by allowing providers such as FreedomPop to make innovative BIAS options available to Lifeline-eligible individuals. Moreover, while the Commission's desire to remain vigilant over the Lifeline program is commendable, growth in the program – such as increased availability of BIAS made possible by the streamlined LBP designation process – does not equate to waste, fraud and abuse by Lifeline providers or subscribers. Indeed, available data suggests that the Commission's reforms since 2012 have been effective at curbing both actual and perceived waste, fraud and abuse in the program, and providers such as FreedomPop have taken extensive steps to ensure the continued success of those efforts. As such, FreedomPop respectfully requests that the Commission grant the request for reconsideration set forth in the Civil Society Letter and reinstate FreedomPop as an LBP.⁵

LBP's Such as FreedomPop Will Enhance the Availability and Affordability of BIAS in Low-Income Communities

The Civil Society Letter correctly points out that “internet access is a necessity for adequate participation in modern society” and that low-income consumers who cannot afford these services “take extraordinary measures to go online elsewhere, and would overwhelmingly subscribe if home access were more affordable.”⁶ FreedomPop has been a firsthand observer of

⁴ *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (2016) (Lifeline Modernization Order).

⁵ As noted herein, FreedomPop is amenable to limiting the LBP designation to non-Tribal areas in the twelve jurisdictions that do not assert authority over wireless resellers for purposes of designating Lifeline service providers. Alternatively, FreedomPop requests that the Commission treat the Company's petition as a request for designation as a wireless Lifeline-only Eligible Telecommunications Carrier (ETC) in the twelve federal ETC jurisdictions set forth in the petition, as well as a request for Compliance Plan approval.

⁶ Civil Society Letter at 1-2. The Civil Society Letter further observes that “[a]ffordability is also the most important factor to low-income families that currently have home internet, a

the struggles of low-income consumers to afford BIAS. The Company has provided its “freemium” wireless services to more than 1.1 million subscribers in the United States and Europe.⁷ However, FreedomPop has found that currently, nearly one in three individuals who want access to its innovative service cannot get it because they do not have a credit card, cannot afford to purchase a device, or both. Most of these would-be subscribers are Lifeline-eligible. As such, FreedomPop viewed the streamlined LBP designation process as a valuable opportunity to form a public-private partnership with the Commission that would allow the Company to make its services available to Lifeline-eligible consumers because the Lifeline subsidy could serve as a form of payment for these individuals.⁸ The fact that nearly three dozen other LBP petitions are currently pending before the Commission illustrates that other providers of BIAS, many of whom have not previously sought to participate in the Lifeline program, also share the Commission’s goal of expanding the availability of BIAS and closing the digital divide in low-income communities.

Increased Competition from LBPs Will Not Undermine the Commission’s Efforts to Reduce Waste, Fraud and Abuse in the Lifeline Program

FreedomPop supports the Commission’s goal of minimizing waste, fraud and abuse in the Lifeline program with rigorous oversight and compliance requirements. However, FreedomPop respectfully submits that such vigilance should not come at the expense of halting legitimate efforts to “modernize Lifeline for the 21st Century to help low-income Americans

population particularly vulnerable to being forced to drop service in the face of financial stress.” *Id.* at 2.

⁷ FreedomPop was founded on the belief that “the Internet is a right, not a privilege.” Its services leverage wireless and Internet technologies to enable a private sector solution to bridge the digital divide.

⁸ For this market segment, FreedomPop is willing to commit to providing a 4G LTE device at no charge.

afford access to today’s vital communications network – the Internet.”⁹ Indeed, Sen. Bill Nelson expressed his concerns just last week that the FCC’s actions with respect to LBP applicants have “[t]hreatened the expansion of broadband into the homes of low-income Americans by limiting the effectiveness of new Lifeline program reforms.”¹⁰

The Civil Society Letter posits that critics of the Lifeline program often “retreat to the long-discredited argument that waste, fraud and abuse are rampant in the program.”¹¹ FreedomPop agrees, and respectfully urges the Commission not to scrutinize the entire Lifeline program based on the transgressions of a few, but rather to make informed decisions about how best to oversee and administer the program based on a more complete picture. Indeed, the Commission’s own analysis undertaken pursuant to the Improper Payments Elimination and Recovery Act (IPERA) found that for fiscal year 2016, “the estimated improper payment rate [for Lifeline] was 2.93% with a margin of error plus or minus 2.44%.”¹² The Commission also clarified that this estimate is the improper payment rate for those Lifeline rules that had previously been identified as subject to the highest improper payments, not the program as a whole.¹³ This information suggests that, although there may be room for improvement, it would not be sound policy for the Commission to slow the modernization of the program that would

⁹ Lifeline Modernization Order ¶ 1.

¹⁰ *See Oversight of the Federal Communications Commission: Hearing Before the S. Comm. On Commerce, Science & Transportation*, 115th Cong (2017) (statement of Sen. Bill Nelson, Ranking Member, S. Comm. On Commerce, Science & Transportation).

¹¹ Civil Society Letter at 2.

¹² Federal Communications Commission, Agency Financial Report Fiscal Year 2016, 69 (rel. Mar. 1, 2017). This rate is significantly lower than the estimated federal government-wide improper payments rate for fiscal year 2016 of 4.67%.

¹³ *Id.* at 68.

allow more providers to make affordable broadband services available in low-income communities.

Moreover, providers of Lifeline services are committed to supporting the Commission's efforts and reforms to minimize waste, fraud and abuse. FreedomPop already has built a hyper-compliant platform that minimizes risk by using third-party resources to carefully vet subscriber identity and eligibility documentation, and by avoiding processes and scenarios that introduce uncertainty or a heightened risk for points of failure. FreedomPop does not intend to utilize the Universal Service Administrative Company's Third Party Identity Verification and address exceptions processes, nor will the Company accept enrollments based on the presence of a benefit qualifying person in the same household, until the Commission issues additional guidance on those topics. The Company also will not employ a commission-based compensation structure in its Lifeline application, review and approval processes.

FreedomPop Should Be Reinstated as an LBP or Designated as an ETC with Approved Compliance Plan Status

FreedomPop supports the Civil Society Letter's request to "overturn the Wireline Competition Bureau's Order on Reconsideration that rescinded Lifeline Broadband Provider designations for nine carriers prepared to offer Lifeline broadband services."¹⁴ The potential to achieve a uniform nationwide service area footprint via the Commission's streamlined LBP approval process matched well with FreedomPop's Internet-based means of interacting with consumers regardless of state or urban or rural location. In reliance on the streamlined LBP designation process, FreedomPop invested more than \$2 million to develop and leverage its Internet capabilities to more effectively identify and qualify Lifeline applicants and protect the

¹⁴ Civil Society Letter at 2.

USF from waste, fraud and abuse with best-in-class partners and processes. Following the Bureau's December 1, 2016 order approving FreedomPop's LBP request,¹⁵ the Company dedicated substantial time and resources to ensure a rapid and smooth rollout of its Lifeline broadband services. As such, the Company was discouraged by the unforeseen decision by the Bureau to reverse the LBP designation and return the Petition to a non-streamlined pending status. Nevertheless, FreedomPop intends to move forward with its plans to offer Lifeline services, and therefore respectfully requests that the Commission reinstate FreedomPop as an LBP, at least for the following states: Alabama, Connecticut, Delaware, the District of Columbia, Florida, Maine, New Hampshire, New York, North Carolina, Tennessee, Texas and the Commonwealth of Virginia.¹⁶ As stated in its LBP petition, FreedomPop does not seek authority to provide service on federally-recognized Tribal lands in these jurisdictions. Alternatively, FreedomPop requests that the Commission treat the Company's petition as a request for designation as a wireless Lifeline-only ETC in these twelve jurisdictions. FreedomPop also respectfully requests that the Commission confirm that approval of the petition will also serve as approval of a FreedomPop Compliance Plan.¹⁷

¹⁵ See *Telecommunications Carriers Eligible for Universal Service Support, Petitions for Designation as a Lifeline Broadband Provider*, WC Docket Nos. 09-197, 11-42, Order, DA 16-1325 (WCB rel. Dec. 1, 2016).

¹⁶ FreedomPop understands that limiting its LBP designation to the twelve federal ETC jurisdictions will alleviate concerns raised by the National Association of Regulatory Utility Commissioners (NARUC) and the State Petitioners in the appeal of the Lifeline Modernization Order currently pending before the U.S. Court of Appeals for the D.C. Circuit that the Commission may have exceeded its authority under the Communications Act when it established the streamlined LBP designation process. See *NARUC v. FCC*, No. 16-1170, Brief of Petitioner (filed Jan. 30, 2017) (NARUC Brief); *NARUC v. FCC*, No. 16-1170, State Petitioners' Opening Brief (filed Jan. 30, 2017).

¹⁷ FreedomPop respectfully submits that its petition, because originally filed and granted as an LBP request, satisfies the "designation criteria [which the Commission deemed] sufficient to prevent waste, fraud, and abuse in the program, so a separate obligation to obtain approval for a compliance plan is not necessary." Lifeline Modernization Order ¶ 281, n.739. With approved Compliance Plan status, FreedomPop can then seek to expand its innovative Lifeline service

FreedomPop's petition sets forth an entry-level broadband package that, in accordance with the Commission's broadband minimum service requirements, would offer consumers 500 megabytes (MB) of data as part of a feature package which includes up to six key features designed to enhance the Lifeline customer's data experience.¹⁸ To be clear, however, FreedomPop intends to include a voice component in its Lifeline plans.¹⁹ Thus, FreedomPop is not seeking forbearance from the Commission's requirement to provide all supported services, including voice services.²⁰ FreedomPop respectfully submits that this commitment should be sufficient assurance that granting the Company's Petition will not result in potentially improper forbearance from the requirement to offer supported services.²¹

For all of the reasons stated herein, FreedomPop respectfully requests that the Commission grant the request for reconsideration set forth in the Civil Society Letter and

offering to additional states by applying for similar wireless Lifeline-only ETC designations on a state-by-state basis in accordance with the requirements set forth by each state.

¹⁸ These features include Data Rollover, Data Saver, VPN, Data Security, Data Compression and Ad Blocker. This package will retail for \$10.99 but will be available to qualified Lifeline customers at no cost. As explained in the petition, FreedomPop will not require a credit card or conduct credit checks, factors that are often barriers confronting Lifeline-eligible consumers. The Lifeline broadband offering will include a Wi-Fi-enabled 4G/LTE capable smartphone or a hotspot device and the Company will also offer subscribers the option to purchase a hotspot-capable smartphone or the ability to bring their own device. Regardless of the qualifying plan selected, Lifeline subscribers will be able to purchase additional units of data at a rate of \$0.02 per MB. In addition, Lifeline subscribers may choose to upgrade and apply a \$10 discount to any plan with a retail price higher than the \$10.99 plan, and in the current rate structure a consumer would be able to purchase the Company's Unlimited Talk, Text & 1GB of Data for an additional \$10.

¹⁹ For example, FreedomPop noted in a recent ex parte presentation to Commission staff that one of its proposed Lifeline plans would offer consumers 500 megabytes (MB) of free data, 200 voice minutes and 500 texts, which retails for \$10.99 but will be free to Lifeline subscribers. *See Ex Parte* Letter from John J. Heitmann, Counsel to STS Media, Inc. d/b/a FreedomPop, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket Nos. 09-197, 11-42 (Feb. 10, 2017). The Company is also considering offering plans that would include at least 500 minutes of voice service, in accordance with the Commission's minimum service standards for Lifeline-supported voice service.

²⁰ *See* Lifeline Modernization Order ¶ 296.

²¹ *See* NARUC Brief at 29-32.

reinstate FreedomPop as an LBP, or alternatively, designate the Company as a wireless Lifeline-only ETC.

Respectfully submitted,



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